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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Alon Atsmon

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44909

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04/06/2006

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EXAMINER

BAROT, BHARAT

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/806,618

Applicant(s)

ATSMON ET AL.

Examiner

Bharat N. Barot

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3,8-14,17-24,27,34-41,43-45,50-59,146,149,151,154 and 155 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,8-14,17-24,27,34-41,43-45,50-59,146,149,151,154 and 155 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. The indicated allowability of claims 2-3, 8-14, 17-24, 27, 34-41, 43-45, 50-59, 146, 149, 151, and 154-155 is withdrawn in view of the newly discovered reference(s) to Fong et al (US Patent No. 6,182,044). Rejections based on the newly cited reference(s) follow.
2. Amended claims 2-3, 8-14, 17-24, 27, 34-41, 43-45, 50-59, 146, 149, 151, and 154-155 remain for further examination.

### **The new grounds of rejection**

3. Applicants' amendments and arguments with respect to claims 2-3, 8-14, 17-24, 27, 34-41, 43-45, 50-59, 146, 149, 151, and 154-155 filed on March 07, 2005 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-3, 12-14, 27, 34-41, 43-45, 50-59, 146, 151, and 155 are rejected under 35 U.S.C. 103(a) as being unpatentable over, Fong et al (U.S. Patent No. 6,182,044) in view of August et al (U.S. Patent No. 6,389,055).

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6. As to claims 2-3, Fong et al teach a method of communicating with an electronic device having a computer, comprising: providing the computer having an audible sound receiving and generating sub-system including a microphone and a loudspeaker; transmitting from a source at least one first acoustic signal to the computer; receiving the at least one first acoustic signal by the microphone, to be detected by the computer; processing the at least one first acoustic signal; and transmitting to the source, using the loudspeaker, at least a second acoustic signal, encoded with information, in response with the detected at least one first acoustic signal (abstract; figures 1-2; and column 2 lines 35 to column 6 line 3).

However, Fong et al do not teach that transmitting from a source at least one first acoustic signal, encoded with information, to the computer and processing the at least one first acoustic signal to extract the encoded information; and also do not disclose that the acoustic signal comprises an ultrasonic signal.

August et al teach that transmitting from a source at least one first acoustic signal, encoded with information, to the computer and processing the at least one first acoustic signal to extract the encoded information; and also disclose that the acoustic signal comprises an ultrasonic signal (abstract; summary of the invention; figures 1 and 5; column 2 line 66 to column 3 line 58; column 4 lines 13-35; column 5 lines 10-17; and column 5 lines 24-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of August et al stated above in the method of Fong et al for communicating with an electronic device having a computer because it would have maximized the utilization of the electronic device and improved efficient usage of the electronic device.

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7. As to claims 12-14, August et al teach that the computer comprises a personal digital assistant, a portable computer, and a desktop computer (figure 2; and column 5 line 42 to column 6 line 3).

8. As to claim 27, August et al teach that the controlling at least one action of a toy, responsive to the received at least one audible sound (column 6 lines 29-53; and column 10 line 65 to column 11 line 10).

9. As to claims 34-35, August et al teach that the source comprises a toy and the information comprises stored player input (column 10 line 65 to column 11 line 10).

10. As to claims 36-40, August et al teach that the source comprises a smart card, a wireless communication device, a computer, and a computer peripheral; and the encoded information comprises personal information (figure 4; and column 5 lines 18-35).

11. As to claim 41, Fong et al teach that the logging into the computer responsive to the at least one first acoustic signal (figures 1-2; and columns 2-5).

12. As to claims 43-45, August et al teach that the acoustic signal comprises human audible sound, wherein the human audible sound has a main frequency over 10kHz and infra-sonic (figures 4-5; and column 5 lines 17 to column 6 line 11).

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13. As to claims 50-51, August et al teach that the audible sound subsystem comprises a sound card and a SoundBlaster compatible sound card (figures 4-5 and 9; column 5 line 17 to column 10 line 64; and column 14 lines 33-59).

14. As to claims 52-59, August et al teach that the sound sub-system is designed for audible sound communication with a human operator (figures 1 and 3; and column 3 lines 19-28); and the ultrasonic signal has a variety of frequency (column 3 line 59 to column 4 line 35; and column 5 lines 44-51).

15. As to claims 146 and 151, August et al teach that the source comprises a telephone and the information comprises e-commerce information (figure 1 and 4; column 2 line 66 to column 3 line 58; and column 5 lines 17-35).

16. As claim 155, August et al teach that the at least one ultrasonic signal comprises a stand alone signal not overlaid on a human tangible signal (see figures 1 and 3-6).

17. Claims 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fong et al (U.S. Patent No. 6,182,044) in view of August et al (U.S. Patent No. 6,389,055) as applied to claim 2 above, and further in view of Foxlin (U.S. Patent No. 6,176,837).

18. As to claims 17-24, neither Fong et al nor August et al teach that the processing comprises determining a distance between the microphone and the source, movement of the microphone relative to the source wherein the movement comprises angular movement and

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translation, a spatial position of the microphone relative to the source wherein the spatial position is a one/two/three dimensional spatial position.

Foxlin teaches that the processing comprises determining a distance between the microphone and the source, movement of the microphone relative to the source wherein the movement comprises angular movement and translation, a spatial position of the microphone relative to the source wherein the spatial position is a one/two/three dimensional spatial position (abstract; summary of the invention; figures 1-4; and column 3 line 25 to column 5 line 44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Foxlin stated above in the method of Fong et al for communicating with an electronic device having a computer because it would have maximized the utilization of the electronic device and improved efficient usage of the electronic device.

19. Claims 8-11, 149, and 154 are rejected under 35 U.S.C. 103(a) as being unpatentable over, Sebestyen (U.S. Patent No. 5,847,752) in view of August et al (U.S. Patent No. 6,389,055).

20. As to claims 8 and 11, Sebestyen teach a method of communicating with an electronic device having a computer, comprising: providing the computer having a sound receiving and generating sub-system including a microphone; transmitting from a source at least one first acoustic signal to the computer; receiving the at least one acoustic signal by the microphone; and forwarding an indication of the information to a remote computer, over the Internet (abstract and summary of the invention; figure 1; column 7 line 60 to column 8 line 43; and column 10 line 19 to column 11 line 60).

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However, Sebestyen does not teach that transmitting from a source at least one first acoustic signal, encoded with information, to the computer; and also do not disclose that the acoustic signal comprises an ultrasonic signal and a stand alone signal not overlaid on a human tangible signal.

August et al teach that transmitting from a source at least one first acoustic signal, encoded with information, to the computer and forwarding an indication of the information to a remote electronic device having a computer, over the Internet; and also disclose that the acoustic signal comprises an ultrasonic signal and a stand alone signal not overlaid on a human tangible signal (abstract; summary of the invention; figures 1 and 3-6; column 2 line 66 to column 3 line 58; column 4 lines 13-35; column 5 lines 10-17; and column 5 lines 24-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of August et al stated above in the method of Sebestyen for communicating with an electronic device having a computer because it would have maximized the utilization of the electronic device and improved efficient usage of the electronic device.

21. As to claims 9-10, Sebestyen teaches that the indication comprises a sound file and a data file (figure 1; and column 8 lines 1-11 and 57-63).

22. As to claims 149 and 155, August et al teach that the source comprises a telephone and the information comprises e-commerce information (figure 1 and 4; column 2 line 66 to column 3 line 58; and column 5 lines 17-35).



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**Response to Arguments**

23. Applicant's arguments have been fully considered. The examiner has attempted to answer (response) to the remarks (arguments) in the body of the Office action.

**Contact Information**

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.

Patent Examiner Bharat Barot

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March 31, 2006

  
**BHARAT BAROT  
PRIMARY EXAMINER**